

06-10725-16k

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U.S. BANKRUPTCY COURT
MARY A. SCHOTT, CLERK

January 24, 2008

Honorable Linda B. Riegler
United States Bankruptcy Judge
300 So. Las Vegas Blvd.
Las Vegas, NV. 89101

Your Honor:

I am submitting the covering front pages of legal documents that were mailed to me by Renee Creswell of Lewis and Roca, LLP Lawyers. They cover the fact that I filed a claim for non payment of a loan to HFA North Yonkers. A hearing has been scheduled for February 21, 2008, in your courtroom.

It is apparent that somewhere in the past, with the multitude of forms that investors like me, were constantly being asked to submit to Investors LLC, that I inadvertently included the name of HFA North Yonkers in the wrong section of listed loans. The HFA North Yonkers loan was repaid in full a short while after May of 2006, to the Sam Costanza 1987 Decedent's Trust, of which I am the Trustee. This claim was filed without my knowledge or consent, and if Investors LLC had contacted me before taking this action, I would have apprized them of the fact that the loan had been fully repaid.

I have notified Ms. Renee Crewell of Lewis and Roca, of the fact that the HFA North Yonkers Loan has been repaid in full, to the Sam Costanza 1987 Decedent's Trust, and that the filing of this claim should not have taken place, and requested that they consider dropping the case.

I am now appealing to you, after considering the above explanation, that your Honor please consider dropping the case and the hearing. For in reality, I am not requesting payment from HFA North Yonkers.

If possible, I would appreciate being advised of your decision on the above matter. Thank you for your valuable time in reviewing the above information.

Sincerely,


Sam Costanza
9809 Canterbury Rose Lane
Las Vegas, NV. 89134

LBR SAYS TO
Docket this as
a withdrawal
of claim 1/20/08
Dm

E-Filed on 1/18/08

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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**FIRST OMNIBUS OBJECTION OF
USACM TRUST TO PROOFS OF
CLAIM BASED, IN WHOLE OR IN
PART, UPON INVESTMENT IN
THE ONE POINT STREET, LLC –
HFA NORTH YONKERS LOAN;
AND CERTIFICATE OF SERVICE**

Date of Hearing: February 21, 2008
Time of Hearing: 9:30 a.m.

The USACM Liquidating Trust (the "USACM Trust") moves this Court, pursuant to § 502 of title 11 of the United States Bankruptcy Code (the "Bankruptcy Code") and Rule 3007 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), for an order disallowing the Proofs of Claim filed by individual investors ("Direct Lenders") against USA Commercial Mortgage Company ("USACM") to the extent such claims are based upon an investment in the One Point Street, LLC – HFA North Yonkers Loan (the

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UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
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Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**DECLARATION OF EDWARD M.
BURR IN SUPPORT OF OMNIBUS
OBJECTIONS TO PROOFS OF
CLAIM BASED UPON
INVESTMENT IN THE ONE POINT
STREET, LLC - HFA NORTH
YONKERS LOAN; AND
CERTIFICATE OF SERVICE**

Date of Hearing: February 21, 2008
Time of Hearing: 9:30 a.m.

I, Edward M. Burr, hereby declare under penalty of perjury that:

1. I am a principal with Sierra Consulting Group, LLC ("Sierra"). Sierra is one of the leading providers of restructuring advisory and litigation support services in the Southwest. Sierra is a leading national consulting firm comprised of experienced CPAs and other financial professionals.

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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
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Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**NOTICE OF HEARING REGARDING
FIRST OMNIBUS OBJECTION OF
USACM TRUST TO PROOFS OF
CLAIM BASED UPON
INVESTMENT IN THE ONE POINT
STREET, LLC – HFA NORTH
YONKERS LOAN; AND
CERTIFICATE OF SERVICE**

Date of Hearing: February 21, 2008
Time of Hearing: 9:30 a.m.

**THE USACM LIQUIDATING TRUST IS OBJECTING TO THE CLAIM
THAT YOU FILED. THE USACM TRUST SEEKS TO DISALLOW YOUR
CLAIM TO THE EXTENT IT IS BASED UPON AN INVESTMENT IN THE ONE
POINT STREET, LLC – HFA NORTH YONKERS LOAN BECAUSE THE
USACM TRUST CONTENDS THAT YOU HAVE BEEN PAID IN FULL FOR
YOUR INVESTMENT IN THAT LOAN. THIS OBJECTION WILL NOT**